

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
REVIEW PETITION NO.38 OF 2004
IN
WRIT PETITION NO.1620 OF 2004

Cdr. T.K. Misra & Ors.....Petitioners

Versus

Maharashtrara Housing & Area Development

Authority & Anr.....Respondents

Mrs.Sahitya Laxmi Deshpande, for the Petitioner

Mr.G.W. Mattos, A.G.P. for the respondents.

CORAM: F.I. REBELLO & S.R.SATHE, JJ.

DATE :6th October, 2004

P.C.:

. Heard learned Counsel for the petitioner and respondents. On behalf of the respondents learned Counsel points out that the petition was dismissed on merits and considering that this Court should not interfere with the impugned order.

2. On the other hand on behalf of the petitioner learned Counsel relies on a judgment of the Apex Court in the case of Bir Bajrang Kumar v. State of Bihar, AIR 1987 SC 1345 wherein the Apex Court noted that if on a similar issue if one petition is admitted and another identical petition was dismissed it may create a very anomalous position and, therefore, in such circumstances considering the probability of contrary judgments the Appeal was allowed. In this case the petition was dismissed by recording reasons, but without admitting the petition.

. In that light considering the judgment of the Apex Court the order dated 15th July, 2004 is recalled. Writ Petition No.1620 of 2004 is restored. Matter to be placed before the regular Court for admission.

(F.I.REBELLO, J.)

(S.R. SATHE, J.)